IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2307 of 2000

to

FIRST APPEALNo 2309 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE J.R.VORA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

HARIBHAI NANUBHAI

Appearance:
Mr.Umesh Trivedi, learned A.G.P. for the appellants.
Mr.J.M.Patel for
MR AJ PATEL for Respondents.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 20/02/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

These three First Appeals under Sec.54 of the Land Acquisition Act, 1894 read with Sec.96 of the Civil Procedure Code, 1908 are directed against the judgment and order dated 3.11.99 passed by the 2nd Extra Assistant Judge, Special Judge (LAR), Ahmedabad (Rural) at Mirzapur in Land Reference Cases Nos.1460/96 to 1462/96, Land Reference Case No.1460/96 being the main case.

The lands of village Ashoknagar, Taluka Viramgam, District - Ahmedabad were sought to be acquired for construction of Narmada Project Goraiya Branch. For this purpose notification under Sec. 4 was issued on 27.11.92 and Notification under Sec.6 was issued on 20.9.93. The Land Acquisition Officer passed the award on 18.11.95 determining the rate of compensation as Rs.1.40 Ps. per sq.mt. The claimants being aggrieved, took the matter in reference claiming the sum of Rs.20/-- per sq.mt., but the Reference Court passed order under Sec.18 of the Land Acquisition Act and determined the rate of compensation to be Rs.12.50 Ps. in addition to what had been determined by the Land Acquisition Officer. Thus, as per the Reference Court the compensation was to be paid at the rate of Rs.13.90 Ps. per sq.mt. and it is this order, which is the subject matter of challenge in these Appeals.

Mr. Umesh Trivedi, learned A.G.P. has submitted that the impugned award is based on previous award Exh.27. It is not disputed that in case of Exh.27 the lands were acquired for Viramgam Kakashi Bhadama Road and for that purpose Notification was issued on 29.9.83 and the rate of compensation was fixed at Rs.6/-- per sq.mt. Exh.27 is a copy of the judgment in Land Acquisition Case No.1675/87 dated 10.4.90. There is a difference of about 9 years in the date of the issue of the Notification under Sec.4 in the present casee i.e. 27.11.92 and the date of the issue of the Notification under Sec.4 in case of the lands, which were concerned in Exh.27, i.e. 29.9.83.

Learned counsel for the appellants has submitted that the previous award Exh.27, which has been relied upon, is a stale award and on that basis by giving yearly increase, rate of compensation could not be determined at Rs.13.90 Ps. per sq.mt. as has been done by the Reference Court and he has also argued that there is no

evidence that the price was on increasing trend. Such contentions raised in many other cases have already been rejected. Merely because the award was passed about 5 to 10 years back, it cannot be ignored on the ground that it is a stale award. Unless it is shown by any positive evidence that there was no trend of increase in price or that the price had in fact decreased in a given span of time, the generally accepted norm which is applied by the courts in such cases is to increase the rate by 10% every year. No material whatsoever has been placed on record nor it has been shown in any manner before this court also that there is any qualitative difference between the lands, which were concerned in case of Exh.27 and the lands which are subject matter of acquisition in the present cases. While it is also not in dispute that the lands in both the cases are of the same village.

For the reasons aforesaid, we do not find any substance in these three Appeals. The same are hereby dismissed. No order as to costs.

It is expected that the due amount of compensation shall be deposited by the authority concerned within a period of three months from the date the certified copy of this order is served upon the concerned authority.

(M.R.Calla,J)

(J.R.Vora,J)